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# IN THE COURT OF APPEALS OF INDIANA

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| CHARLES M. CORMACK, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 10A04-0511-CR-641 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE CLARK CIRCUIT COURT
The Honorable Daniel F. Donahue, Judge
Cause No. 10C01-0112-CF-141

**September 6, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## Case Summary

Charles M. Cormack appeals the trial court's sentences on his convictions for one count of child molesting and two counts of sexual misconduct with a minor. We find that although the trial court failed to provide sufficient support for one cited aggravator, it properly considered two other aggravators, rejected several proffered mitigators, and determined that the aggravators outweighed the mitigators in deciding to enhance Cormack's sentences and to run them consecutively. Moreover, we find that consecutive sentencing was properly applied in this case because Cormack's convictions involved a statutorily-defined "crime of violence." Finally, we find that Cormack's sentence is not inappropriate in light of the nature of the offenses and his character. Accordingly, we affirm the trial court.

## Facts and Procedural History

On February 1, 2000, the State charged Charles M. Cormack with two counts of child molesting as class A and class C felonies (Counts I and II, respectively) and two counts of sexual misconduct with a minor as class B and C felonies (Counts III and IV, respectively), all stemming from incidents involving Cormack's step-son when the boy was between the ages of eleven and fourteen. On July 29, 2002, Cormack pled guilty to Counts II-IV pursuant to a plea agreement wherein the State agreed to drop Count I. The plea agreement left sentencing to the discretion of the trial court, i.e., it was an "open" plea agreement.

At Cormack's sentencing hearing, the trial court found the following aggravating circumstances: (1) Cormack's history of criminal activity, which consists of prior sexual

abuse convictions; (2) Cormack's need for correctional or rehabilitative treatment that can best be provided by a commitment to a penal facility; and (3) the victim was Cormack's stepson, and therefore Cormack was in a position of trust with his victim. The trial court did not specifically mention mitigating circumstances. The trial court sentenced Cormack to eight years executed on Count II, twenty years executed on Count III, and eight years suspended to probation on Count IV. The court ordered his sentences to be served consecutively, for a total executed sentence of twenty-eight years. On March 29, 2005, Cormack filed a petition for permission to file a belated appeal under Indiana Post-Conviction Rule 2 arguing that the trial court failed to inform him that he had a right to appeal his sentence under his plea agreement. On August 2, 2005, Cormack received permission to file his belated appeal, which is before us today.

**Discussion and Decision**

Cormack raises the following issues which we find pertinent on appeal: (1) whether the trial court abused its sentencing discretion when it enhanced Cormack's sentences and when it ordered consecutive sentences and (2) whether the sentence imposed is inappropriate.[1] We address each issue in turn.

**I. Abuse of Discretion: Enhanced and Consecutive Sentences**

We direct our attention first to Cormack's allegation that the trial court abused its sentencing discretion when it enhanced his sentences on each of his three convictions and when it imposed those sentences to run consecutively. In general, sentencing lies within

[1] Cormack also asks us to determine if *Blakely v. Washington*, 542 U.S. 296 (2004), applies retroactively to his case and thereby calls into question the court's findings of certain aggravators. Our review of the issues presented by Cormack, however, indicates that the final resolution of this case is unaffected by the application of *Blakely*. We therefore decide this matter under the presumption that *Blakely* does apply.

the discretion of the trial court. *Henderson v. State*, 769 N.E.2d 172, 179 (Ind. 2002). As such, we review sentencing decisions only for an abuse of discretion, "including a trial court's decision to increase or decrease the presumptive sentence because of aggravating or mitigating circumstances." *Id*. Furthermore, "[w]hen enhancing a sentence, a trial court must: (1) identify significant aggravating and mitigating circumstances; (2) state the specific reasons why each circumstance is aggravating or mitigating; and (3) evaluate and balance the mitigating against the aggravating circumstances to determine if the mitigating offset the aggravating circumstances." *Vazquez v. State*, 839 N.E.2d 1229, 1232 (Ind. Ct. App. 2005) (quoting *Bailey v. State*, 763 N.E.2d 998, 1004 (Ind. 2002)), *trans. denied*. A trial court must also adhere to this three-part framework when it exercises its discretionary authority to impose consecutive sentences. *See Johnson v. State*, 785 N.E.2d 1134, 1143 (Ind. Ct. App. 2003), *trans. denied*. The trial court did not enter a written sentencing order in Cormack's case. Its sentence statement provides, in pertinent part, the following:

> The Court has considered the Pre-Sentence Investigation Report, the Probable Cause Affidavit in this case, as well as the testimony of the witnesses presented here this afternoon, and the Court does conclude and accepts in effect the Probation Officer's findings in this particular case, and I'm going to find that there are aggravating factors, and that those aggravating factors apply to all three of the Counts. There is a history of criminal activity, and particularly the activity in this case has to do with sexual abuse convictions. Secondly, I believe that Mr. Cormack is in need of correctional treatment, and it can best be provided by commitment to a penal facility. Thirdly, in this particular instance the victim, who was a stepson, was in a position of trust. There has been a violation of that particular trust, and the Court also recognizes the impact of these offenses on the victim in this particular case.

Tr. p. 71-72. With this statement in mind, we review Cormack's sentencing claims.

### A. Aggravators

Cormack contends that the trial court improperly found or attached excessive weight to each of the three aggravators referenced in its sentencing statement: Cormack's criminal history, the need for correctional or rehabilitative treatment best provided by a penal facility, and Cormack's position of trust with his victim.[2] We agree with Cormack with regard to the second of these aggravators—the need for correctional or rehabilitative treatment. Cormack correctly notes that "[t]his aggravator is properly used to enhance a sentence only when a court explains with specific facts why treatment is need[ed] beyond that which could be provided through the presumptive sentence." Appellant's Br. p. 16 (citing *Smith v. State*, 675 N.E.2d 693, 697-98 (Ind. 1996)). The State agrees that the trial court here failed to provide a direct explanation of its reasoning in its sentencing statement, but it argues that because the court indicated that it had reviewed the pre-sentence investigation report, which contained a detailed recommendation specifying the need for correctional treatment, the court met its burden to provide the requisite reasoning behind its conclusion. We cannot agree. Although the trial court could have indicated, specifically, that it relied on the recommendation and reasoning contained in the pre-sentence investigation report in arriving at its conclusion regarding this aggravator, a mere statement that it had reviewed the report—set apart from the finding of this particular aggravator—is insufficient by itself to support the

[2] Cormack argues in his Appellant's Brief that the trial court also inappropriately found the impact of the crime on the victim as an aggravator. However, the State points out—and in his Reply Brief Cormack concedes—that the trial court merely mentioned the impact of the crime on the victim in its discussion regarding the violation of a position of trust aggravator. We agree with this characterization of the trial court's statement and, therefore, we need not address the impact of the crime as an aggravator.

finding that a defendant is in need of correctional or rehabilitative treatment best provided by a penal facility.

Having determined that the trial court improperly relied upon this aggravator, we must still turn our attention to the other aggravators cited. "A single aggravating factor may support the imposition of both an enhanced and consecutive sentence." *Payton v. State*, 818 N.E.2d 493, 496 (Ind. Ct. App. 2004), *trans. denied*. Therefore, turning first to Cormack's criminal history, Cormack admits that a trial court may consider criminal history as an aggravator under *Blakely*, but he argues that the trial court failed to sufficiently elaborate on its reasons for considering that history to be an aggravating factor.[3] *See Currie v. State*, 448 N.E.2d 1252, 1254 (Ind. Ct. App. 1983) (the mere statement that a defendant has a criminal history, without some recitation of the incidents comprising that history or the reason the trial court finds it to be aggravating, is inadequate to support a criminal history aggravator). We disagree with Cormack's claim here, however.

In considering the proper sentence for Cormack, the trial court stated that it had reviewed the pre-sentence investigation report, which listed Cormack's criminal history and detailed the charges against him. This includes three prior felonies and a prior misdemeanor, all in 1983 and all for sex abuse offenses involving two boys in the ten-to-eleven-year-old range. Appellant's App. p. 42. Cormack informed the trial court that he had reviewed the pre-sentence investigation report and that he found it to be accurate. Tr.

[3] In addition, Cormack argues that the trial court should have given mitigating weight to the fact that all of his prior convictions occurred over fifteen years before the present offenses. We address this argument below.

p. 19-20. Further, when the court advised Cormack that it considered his criminal history to be an aggravator, it noted that its review of the pre-sentence investigation report indicated that Cormack's criminal history involved "sex abuse convictions." *See id*. at 71. This is sufficient to support the court's determination that Cormack's criminal history is an aggravator in this case. *See Lemos v. State*, 746 N.E.2d 972, 975 (Ind. 2001) (stating that details of crime presented in pre-sentence investigation report upon which court relied in finding criminal history to be an aggravator was sufficient to support court's finding without specific recitation by the court of the crimes or details included in the report).

Regarding the third aggravator cited by the trial court—Cormack's position of trust with his stepson—Cormack agrees admits that he was in a position of trust with his victim. Having stipulated to this fact, Cormack acknowledges that *Blakely* is not implicated here. However, he argues that the trial court abused its discretion by giving this aggravator more weight than was deserved. Cormack cites his stepson's testimony, which includes testimony at the urging of Cormack's attorney that the boy would be satisfied if Cormack received a sentence in the range of fifteen years. Tr. p. 40-42. Cormack cites no law to support his assertion that a trial court should decrease the weight of a position of trust aggravator based on the lenient sentencing recommendation of a child molestation victim, and we categorically reject his invitation to become the first court to provide such support. The trial court did not abuse its discretion by finding the position of trust aggravator to be of significant weight despite the victim's lenient

sentencing recommendation. Overall, then, the trial court properly found and applied two of the three aggravators cited against Cormack.

**B. Mitigators**

Cormack next argues that the trial court failed to find several mitigating factors he advanced at sentencing. We note "that a trial court is not obligated to weigh or credit the mitigating factors in the manner a defendant suggests they should be weighed or credited." *Cotto v. State*, 829 N.E.2d 520, 525 (Ind. 2005). "However, when a trial court fails to find a mitigator that the record clearly supports, a reasonable belief arises that the mitigator was improperly overlooked." *Id*.

We find it necessary to address several mitigators that Cormack argues, on appeal, he proffered to the trial court, but which the State argues Cormack failed to present and so has waived for purposes of our review. *See Simms v. State*, 791 N.E.2d 225, 233 (Ind. Ct. App. 2003) ("If the defendant fails to advance a mitigating circumstance at sentencing, this court will presume that the circumstance is not significant and the defendant is precluded from advancing it as a mitigating circumstance for the first time on appeal." (citing *Spears v. State*, 735 N.E.2d 1161, 1167 (Ind. 2000), *reh'g denied*). First, Cormack argues that he presented evidence to the trial court that his steady employment history should be considered as a mitigator because his pre-sentence investigation report included his work history. *See* Appellant's App. p. 48. We cannot agree that the mere inclusion of a work history in a pre-sentence investigation report constitutes the presentation of this factor as a proffered mitigator where the defendant

otherwise fails to bring the matter to the court's attention. We agree with the State that Cormack has waived this argument.

Next, Cormack argues that he presented evidence to the trial court that his imprisonment would impose an undue hardship on his dependents. As evidence of this fact, Cormack suggests that we consider his stepson's testimony that he waited to tell anyone that Cormack was molesting him until his mother was in a better financial position so that his family could get along without Cormack's income. *See* Tr. p. 45. We cannot agree with Cormack that we should consider his victim's testimony as evidence supporting a mitigator not otherwise placed before the court.[4] Accordingly, Cormack has waived this argument.

Next, Cormack argues that he presented evidence that he would respond favorably to short-term imprisonment or probation. He cites as evidence the fact that as a free citizen he has, on several occasions both in conjunction with and apart from his past convictions and probationary period, sought psychological therapy to help him control his pedophilia. He alleges that he intends to continue to seek therapy whether he is imprisoned. He directs us to a portion of the record where this was discussed as follows:

> Q: Mike, if you are given probation through this case, do you understand that the Court can order that you seek, you be [sic] in therapy once a week or once a month or even more frequently until probation is over?
>
> A: I would insist on it.

[4] We also remark, as an aside, that since Cormack's victim indicated that he only exposed Cormack's molestations after his mother became able, financially, to support her family without Cormack's assistance, this testimony could be read to infer that Cormack's imprisonment does *not* impose an undue hardship on his family.

Q: As you say that, do you have any, after what happened especially, do you have any intentions of terminating therapy before you are dead?

A: Oh, I have no intention at this point of doing that.

Q: Are you telling the Court that you're going to be in therapy regularly for the rest of your life?

A: If that's what it takes. If that's what it takes.

Tr. p. 54; *see* Appellant's Reply Br. p. 14. Cormack then goes on to state that "[t]he evidence presented at sentencing addressing Cormack's efforts to address his problems voluntarily must be seen as support for a conclusion that he would indeed respond affirmatively to short term imprisonment followed by extensive probation." Appellant's Reply Br. p. 14. We do not agree that Cormack adequately presented this argument to the trial court for consideration as a mitigating factor. Although Cormack testified that he would seek therapy if released on probation, a trial court not specifically asked to consider such brief and somewhat tangential testimony as evidence that a defendant will respond affirmatively to short-term imprisonment and probation cannot be said to have clearly had evidence of that mitigator placed before it. Accordingly, Cormack has waived this argument as well. In addition, even if we were to agree with Cormack that his testimony did constitute a presentation of this mitigator to the trial court, the fact that Cormack molested his stepson *while receiving therapy* would support the fact that the trial court rejected this proffered mitigator.

Cormack does cite several mitigating factors that we find were placed before the trial court, and he argues that because the trial court failed to mention them specifically in its sentencing statement that it must have failed to consider them. We do not agree. It is

true that we presume that a valid mitigator not found by a trial court was overlooked. But we do not presume that invalid mitigators were overlooked by the trial court. Cormack presented these alleged mitigators to the trial court and as the court did not find them to be valid mitigators and imposed an aggravated sentence, we assume that it rejected the proposed mitigators. Again, the trial court is not required to find mitigating factors proffered by the defendant. *Cotto*, 829 N.E.2d at 525.

Turning our attention to this inquiry, we first address Cormack's argument that the trial court abused its discretion when it failed to credit his guilty plea as a significant mitigator. It is well-established that "[a] guilty plea demonstrates a defendant's acceptance of responsibility for the crime and extends a benefit to the State and to the victim or the victim's family by avoiding a full-blown trial." *Vazquez*, 839 N.E.2d at 1232 (quoting *Francis v. State*, 817 N.E.2d 235, 237-38 (Ind. 2004)). However, where the defendant receives a substantial benefit from a plea, the trial court is not required to find the guilty plea as a significant mitigator. *See id*. Here, Cormack did receive a substantial benefit in return for pleading guilty, namely, the dismissal of a charge of class A felony child molesting. As a result of this promise, Cormack's potential sentence was reduced by twenty to fifty years.[5] In this instance, the trial court was not required to further reward Cormack by finding his guilty plea as a mitigator to be considered beyond the fact that it resulted in the dismissal of the class A felony charge.

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[5] The sentencing statute in effect at the time Cormack was charged provided:

> A person who commits a Class A felony shall be imprisoned for a fixed term of thirty (30) years, with not more than twenty (20) years added for aggravating circumstances or not more than ten (10) years subtracted for mitigating circumstances.").

Ind. Code § 35-50-2-4 (2004).

Cormack also argues that the trial court should have considered the remorse he expressed as a significant mitigating factor. However, the Indiana Supreme Court has held that a trial court's determination of a defendant's remorse is similar to a determination of credibility. *Pickens v. State*, 767 N.E.2d 530, 535 (Ind. 2002). As such, without evidence of some impermissible consideration by the trial court, a reviewing court will accept its determination as to remorse. *See id*. While Cormack did state that he was "sorry for the way things turned out," Tr. p. 54-55, the trial court is in the best position to judge the sincerity of a defendant's remorseful statements and to balance such statements against the defendant's other testimony. The court did not abuse its discretion by rejecting Cormack's alleged remorse as a mitigating factor.

Next, Cormack contends that the trial court abused its discretion because it failed to give mitigating weight to the remoteness of his criminal history. The weight that should be given to a defendant's criminal history varies based on the gravity, nature, and number of prior offenses and their similarity to the instant offense. *See Wooley v. State*, 716 N.E.2d 919, 929 (Ind. 1999), *reh'g denied*. Although "the chronological remoteness of a defendant's prior criminal history should be taken into account, . . . [t]he trial court could view the remoteness of the defendant's prior criminal history as a mitigating circumstance, or on the other hand, it could find the remoteness to not affect the consideration of the criminal history as an aggravating circumstance." *Buchanan v. State*, 767 N.E.2d 967, 972 (Ind. 2002). While it is true that Cormack was convicted of the crimes listed in his criminal history over fifteen years before the present charges were filed, the similarity of those three convictions to the present offense cannot be

overlooked. All of Cormack's offenses have involved the sexual abuse of prepubescent boys. It was not an abuse of the trial court's sentencing discretion to reject this proffered mitigator.

Finally, Cormack argues that the trial court should have considered his testimony that he had a difficult childhood as a mitigator. We note that Cormack admits that his childhood did not include any sexual abuse, although we also note that our analysis here does not turn on this fact. Indiana courts have repeatedly found that a defendant's difficult childhood need not necessarily be considered as a significant mitigator. *See, e.g.*, *Powell v. State*, 769 N.E.2d 1128, 1135 (Ind. 2002), *reh'g denied*. We cannot say, then, that the trial court abused its discretion by rejecting this proffered mitigator.

We find, then, that the trial court properly found two of three aggravators and that it properly rejected all of Cormack's proffered mitigators. Accordingly, we find that the trial court acted within its discretion when it enhanced Cormack's sentences in this case.

**C. Consecutive Sentencing**

Cormack also argues that the trial court abused its discretion when it imposed his sentences to run consecutively on each of his three counts. The State did not address Cormack's claim regarding consecutive sentencing in its brief. An appellee's failure to respond to an issue raised in an appellant's brief is, as to that issue, akin to failing to file a brief. *Newman v. State*, 719 N.E.2d 832, 838 (Ind. Ct. App. 1999), *trans. denied*. This failure does not relieve us of our obligation to correctly apply the law to the facts in the record in order to determine whether reversal is required. *Id*. However, counsel for appellee remains responsible for refuting those arguments raised by appellant. *Id*. For

appellant to win reversal on the issue, he must establish only that the lower court committed prima facie error. *Id*. Prima facie means at first sight, on first appearance, or on the face of it. *Id*.

Cormack makes two arguments on this point. First, he contends that the trial court failed to articulate its reasoning for imposing consecutive sentences on any of his convictions. The trial court indicated in its order that the aggravating circumstances it cited applied to all three of Cormack's convictions. Tr. p. 71. We recently affirmed that a single aggravating circumstance may support the imposition of both enhanced and consecutive sentences. *Diaz v. State*, 839 N.E.2d 1277, 1279-81 (Ind. Ct. App. 2005); *see also Smylie v. State*, 823 N.E.2d 679, 686 (Ind. 2005), *cert. denied*, 126 S. Ct. 545 (2005). In addition, our Supreme Court has determined that the consideration of aggravators for the purposes of consecutive sentencing does not implicate *Blakely*. *See Smylie*, 823 N.E.2d at 686. There is no question with regard to this issue that the trial court acted within its discretion when it imposed consecutive sentences based on the three aggravators it set forth.

Cormack also calls our attention to the language of the trial judge in his sentencing statement. Specifically, the court stated:

> So having said that, and also noting for the record that Count II and Count III occurred at and about the same time and the same situation. There's not much differention [sic] in Counts II and III. I want to make that a part of the record so that when I impose this sentence that's part of my reasoning.

Tr. p. 72. Cormack contends that this is akin to a statement by the trial court that it considered Counts II and III to consist of a single episode of criminal conduct and, apparently, he suggests that therefore sentencing on the two counts cannot run

consecutively. First, we must point out that Cormack overextends the prohibition on consecutive sentencing for a single episode of criminal conduct. Indiana law does not prohibit consecutive sentencing altogether in such cases; it only limits the length of the executed sentence for felonies to the length of the presumptive sentence[6] of that class of felony one degree higher than the most serious offense of which a defendant is convicted. *See* Ind. Code § 35-50-1-2(c). However, the law does not apply to consecutive sentencing on convictions of statutorily-defined "crime[s] of violence," which includes child molesting. *See id*. Therefore, even if we were to agree with Cormack regarding the meaning of the trial judge's statement,[7] Cormack's conviction of child molesting under Count II precludes application of the statute to prevent consecutive sentencing under these facts.[8] The trial court did not abuse its discretion when it ordered that Cormack's sentences be served consecutively.

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[6] Cormack's charged crimes were committed during the period from February 2000-March 2001, and he was sentenced on July 29, 2002. Therefore, we apply the "presumptive" sentencing scheme in effect at that time rather than the advisory scheme now in effect. *See* P.L. 71-2005, §§ 4, 6-7 (eff. Apr. 25, 2005) (changing sections of Indiana Code to reflect advisory sentencing); *Weaver v. State*, 845 N.E.2d 1066, 1070-72 (Ind. Ct. App. 2006) (the change from presumptive to advisory sentences constitutes a substantive, rather than procedural, change that should not be applied retroactively), *trans. denied*; *but see Samaniego-Hernandez v. State*, 839 N.E.2d 798, 805 (Ind. Ct. App. 2005).

[7] We are not convinced that the trial judge meant to suggest that Cormack's convictions under Counts II and III constituted a single episode of criminal conduct. A review of the charging information indicates that Count II applies to child molesting committed by Cormack between the dates of February 1, 2000, and March 10, 2000, while Count III applies to sexual misconduct with a minor committed by Cormack between the dates of March 11, 2000, and March 11, 2001. This, coupled with Cormack's failure to point to any evidence in the record suggesting that the charged events were so close in time as to justify his argument that they could constitute a single episode of criminal conduct, weighs heavily against our finding—even under a prima facie review—that the trial judge's language indicated his belief that the crimes constituted a single episode.

[8] Even if Cormack had not been convicted of a crime of violence, the sentences imposed here would still fall within the court's discretion. Cormack was convicted of a class B felony under Count II; accordingly, Indiana Code 35-50-1-2(c) required, at the time Cormack was charged, that his executed sentence be limited to thirty years, the presumptive sentence for a class A felony. *See* Ind. Code § 35-50-2-4 (2004). Cormack's executed sentence of twenty-eight years complies with this requirement.

## III. Inappropriate Sentence

Cormack's final argument is that his aggregate sentence of thirty-six years, with twenty-eight years executed, is inappropriate in light of the nature of the offenses and his character. Indiana Rule of Appellate Procedure 7(B) states: "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Purvis v. State*, 829 N.E.2d 572, 587 (Ind. Ct. App. 2005) (internal citations omitted), *trans. denied*, *cert. denied*, 126 S. Ct. 1580 (2006). After due consideration of the trial court's decision, we cannot say that Cormack's sentence is inappropriate.

First, the nature of Cormack's offenses supports the imposition of the sentence he received. Cormack serially abused his own stepson over a period spanning three years, from the time the boy was age eleven to the time he was age fourteen. He repeatedly fondled the child and performed oral sex on him on numerous occasions, and he admitted that he usually masturbated during these incidents. Considering the time-span of Cormack's sexual abuse of his stepson, we cannot say that the nature of his offenses persuades us to revise his sentence.

Likewise, Cormack's character fails to convince us that we should exercise our Appellate Rule 7(B) authority in this case. Cormack is a convicted child molester who

met and married a woman with a ten-year-old son, knowing that he historically has fixated his sexual fantasies on boys of this age. He gained and then heinously violated the trust of his wife and her son, and he allowed this to continue for a period of three years. With the support of his wife and his family, he was receiving therapy for his pedophilia near the time that he initiated sexual contact with the boy, and he attended therapy during several periods throughout these molestations. Yet he did not stop molesting the child, and he never informed his therapist or anyone else that he had again lost control of his pedophilia, even though he had every opportunity to do so. We do not disagree with Cormack that it weighs in favor of his character that he apparently abstained from inappropriate contact with children for a number of years and that he repeatedly sought therapy to help him do so. However, we note that the trial court apparently took this into consideration when it suspended his sentence on Count IV and, even if it did not, this factor alone and in the face of the other considerations before us is insufficient to persuade us to revise Cormack's sentence. In sum, the nature of Cormack's offenses and his character do not lead us to find that his sentence is inappropriate. We therefore affirm the trial court.

Affirmed.

DARDEN, J., and RILEY, J., concur.